



FH

**STATE OF WISCONSIN
Division of Hearings and Appeals**

In the Matter of

[REDACTED]
[REDACTED]
[REDACTED]

DECISION

AAP/165438

PRELIMINARY RECITALS

Pursuant to a petition filed April 13, 2015, under Wis. Admin. Code §DCF 50.065, to review a decision by the Adoption Assistance in regard to Adoption Assistance Program, a hearing was held on May 06, 2015, at Milwaukee, Wisconsin.

The issue for determination is whether Petitioner's son was eligible for adoption assistance after he turned age 19.

There appeared at that time and place the following persons:

PARTIES IN INTEREST:

Petitioner:

[REDACTED]
[REDACTED]
[REDACTED]

;

Respondent:

Department of Children and Families
201 East Washington Avenue, Room G200
Madison, Wisconsin 53703
By: Atty. Theresa Durkin, Office of Legal Counsel

ADMINISTRATIVE LAW JUDGE:

David D. Fleming
Division of Hearings and Appeals

FINDINGS OF FACT

1. Petitioner is a resident of Milwaukee County.
2. Petitioner adopted his son on November 4, 2009. That young man turned 19 years of age on March 1, 2015.
3. On March 21, 2014 the Department mailed Petitioner a Notice of Decision on Adoption Assistance Eligibility Status that informed Petitioner that the adoption assistance would end during the month of his son's 19th birthday unless additional adoption assistance criteria were met. Those criteria were enclosed with that Notice. Specifically relevant here were the requirements that Petitioner's son

apply for and be denied Social Security Supplemental Security Income and still be in a full-time high school program.

4. On November 12, 2014 the Department mailed Petitioner a form necessary for continuation of adoption assistance for child over age 19. It indicated that the form along with a denial of Social Security disability needed to be submitted to the Department. These documents were never submitted to the Department.
5. On March 3, 2015 the Department mailed Petitioner a Notice of Decision on Adoption Assistance Eligibility Status advising Petitioner that the adoption assistance for his son would end March 31, 2015.
6. Petitioner's son was expected to graduate high school in June 2015.

DISCUSSION

Adoption assistance is a benefit paid to facilitate the adoption of children with special needs. *Wis. Admin. Code, §DCF 50.01(1)*. Once assistance is approved for an adopted child, the child remains eligible for the benefit until s/he reaches 18 years of age. Nonetheless, assistance can be continued past age 18 but only if the following provisions are met:

...
(b) Discontinue adoption assistance based on any of the following circumstances, as determined by the department:

1. When the adoptee reaches 18 years of age, except as follows:

- a. Adoption assistance may continue if the adopted person is 18 years of age or over, but under 19 years of age, and is a full-time student in high school or the equivalent.
- b. Adoption assistance may continue if the adopted person is 18 years of age or over, but under 21 years of age; the adopted person is a full-time student in high school or the equivalent; the department determines that the adopted person has a mental or physical handicap that warrants the continuation of assistance under 42 USC 673; the adopted person is not eligible for other benefits such as supplemental security income; and the adopted person otherwise lacks adequate resources to continue in high school or the equivalent.

...
Wis. Admin. Code, §DCF 50.06(3)(b).

Under the rule benefits cannot be continued beyond age 18 unless the recipient has been denied other benefits paid to disabled adults. Without proof of that the Department correctly discontinued adoption assistance when Petitioner's son turned age 19.

CONCLUSIONS OF LAW

That the Department correctly discontinued eligibility for Petitioner's son when he turned age 19 because he did not meet the criteria for continued assistance.

THEREFORE, it is

ORDERED

That this appeal is dismissed.

REQUEST FOR A REHEARING

You may request a rehearing if you think this decision is based on a serious mistake in the facts or the law or if you have found new evidence that would change the decision. Your request must be **received within 20 days after the date of this decision**. Late requests cannot be granted.

Send your request for rehearing in writing to the Division of Hearings and Appeals, 5005 University Avenue, Suite 201, Madison, WI 53705-5400 **and** to those identified in this decision as "PARTIES IN INTEREST." Your rehearing request must explain what mistake the Administrative Law Judge made and why it is important or you must describe your new evidence and explain why you did not have it at your first hearing. If your request does not explain these things, it will be denied.

The process for requesting a rehearing may be found at Wis. Stat. § 227.49. A copy of the statutes may be found online or at your local library or courthouse.

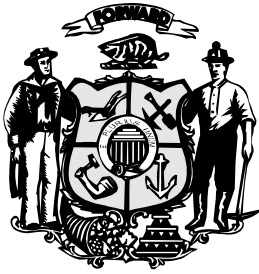
APPEAL TO COURT

You may also appeal this decision to Circuit Court in the county where you live. Appeals must be filed with the Court **and** served either personally or by certified mail on the Secretary of the Department of Children and Families, 201 East Washington Avenue, Room G200, Madison, Wisconsin 53703, **and** on those identified in this decision as "PARTIES IN INTEREST" **no more than 30 days after the date of this decision** or 30 days after a denial of a timely rehearing (if you request one).

The process for Circuit Court Appeals may be found at Wis. Stat. §§ 227.52 and 227.53. A copy of the statutes may be found online or at your local library or courthouse.

Given under my hand at the City of Milwaukee,
Wisconsin, this 31st day of July, 2015

\sDavid D. Fleming
Administrative Law Judge
Division of Hearings and Appeals



State of Wisconsin\DIVISION OF HEARINGS AND APPEALS

Brian Hayes, Administrator
Suite 201
5005 University Avenue
Madison, WI 53705-5400

Telephone: (608) 266-3096
FAX: (608) 264-9885
email: DHAmail@wisconsin.gov
Internet: <http://dha.state.wi.us>

The preceding decision was sent to the following parties on July 31, 2015.

Adoption Assistance
Attorney Therese Durkin